



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,363	12/05/2003	Fernando Stroppiana	670091.402	8247

500 7590 08/09/2006

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT PAPER NUMBER

1771

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/729,363	STROPPIANA, FERNANDO	
	Examiner	Art Unit	
	Norca L. Torres-Velazquez	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16, 18-21 and 36-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16, 18-21 and 36-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Amendment after Final Rejection filed on July 19, 2006 has been entered and considered herein. The indication of allowable subject matter with regard to feature of the foam material in the form of distinct areolas is withdrawn herein. Prosecution on the merits of this application is reopened and the Examiner relies on JP9324523 and alternatively on JP09100618A to address the limitation of the foam material in the form of distinct areolas.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-13, 16, 18-21 and 36-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over HARKINS, Jr. (US 4,698,258) in view of POTEET (US 4,853,280) and JP9324523 (or alternatively in view of JP 409100618A).

HARKINS, Jr. relates to products for covering surfaces such as floors, walls, countertops, furniture, among others. (Col. 1, lines 1-5) The reference teaches a composite web comprising two parallel layers of nonwoven fiber-glass webs each impregnated with a solidified resinous and separated from each other by a core layer of solidified resinous composition which is bonded to the resinous composition used to impregnate the fiber glass layers. (Col. 4, lines 55-60) The reference further teaches that the non-woven fiberglass webs usually consist solely of the synthetic binder and the glass fibers, although the fibers may be in a mixture with polyester fibers. (Col. 5, lines 20-24) The reference teaches the use of polyvinyl resins for the

Art Unit: 1771

construction of the fiberglass webs and teaches that best results are obtained with a dispersion of resin in a plasticizer in the form of a plastisol. The reference also teaches, “gelling”. (Col. 5, lines 6-9, lines 41-59; Col. 7, line 32) The core layer is comprised of the same material that is used for impregnating the fiberglass webs. The composition may be applied as a plastisol and also as a *dry blend*. (Col. 5, lines 63-66) It is the Examiner’s interpretation that by dry blend it encompass materials such as granules. The reference recognizes the application of adhesives in the outer layer of one of the fiberglass webs in applications such as tile products. (Refer to Col. 6, lines 55-61 and Col. 17, lines 46-48) The reference teaches that the fiberglass webs may range in overall thickness from 0.005 inches to 0.030 inches [0.127-0.762 mm]. (Col. 5, lines 12-14) With regards to the thickness of the core layer, the reference teaches that it should be at least about the sum of the thickness of the fiberglass webs prior to impregnation. (Col. 8, lines 10-22) Therefore, it is the Examiner’s interpretation that assuming the thickness of the webs is 0.762 mm each then the thickness of the core layer should be about 1.524 mm, which reads on the values claimed in claims 8 and 9 of the present application. The reference also discloses the use of a foam layer applied to the side of the product that is intended to contact the floor. (Col. 2, lines 41-43) HARKINS, Jr. further discloses the use of a foam layer applied to the side of the product that is intended to contact the floor. (Col. 2, lines 41-43)

However, it fails to teach that the foam layer is in the form of distinct areolas.

HARKINS, Jr. also fails to teach a layer of “adhesive-absorbing material”.

POTEET is directed to floor coverings and comprises a backing layer having a weight from about 0.9 to 24 ounces per square yard [30.5-814 gsm] which comprises a nonwoven fabric

composed of randomly oriented polyester fibers. (Refer to claims 1-4) The Examiner equates such layer to the adhesive-absorbing material.

The JP 9324523 reference teaches floor cushioning material and teaches different shapes for the soft material 2 made of urethane foam. Figure 7 of the patent, shows a shape that equates to the areolas of the present invention. (Abstract; Figures)

Alternatively, the JP409100618A reference teaches a cushioning material in which the foam body forms a similar shape. (Refer to Abstract; Figures)

Since the references relate to floor covering materials, the purpose disclosed by POTEET and the JP'523 and JP '618 would have been recognized in the pertinent art of HARKINS, Jr.

4. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the structure of HARKINS, Jr. and provide it with a nonwoven layer with the motivation of providing a covering material which can be pulled from the floor where adhesives have been used, and is easily replaced, but which resists buckling and folding when rolled as disclosed by POTTET. (Refer to Col. 2, lines 16-22) With regards to the shape of the foam layer, it is noted that "where the general conditions of a claim are met, mere changes in size and shape have been held to be within skill of the art dependent only on the desired end use of the article claimed", *In re Rose* (105 USPQ 237), *In re Dailey* (149 USPQ 47)

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

DE 20304529 U1 published June 18, 2003 – shows a foam layer 3 with the claimed areolas. The priority date of the present application antecedes the publication date of this reference.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Norca L. Torres-Velazquez
Primary Examiner
Art Unit 1771

August 4, 2006